

SENATE BILL 1708

By Herron

AN ACT to amend Tennessee Code Annotated, Title 39,
Chapter 13, to enact the "Tennessee Human
Trafficking Prevention Act of 2007".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION Tennessee Code Annotated, Title 39, Chapter 13, is amended by adding the
following new Part 9:

§ 39-13-901. This part shall be known and may be cited as the "Tennessee Human
Trafficking Prevention Act of 2007".

§ 39-13-902. As used in this part unless the context otherwise requires:

(1) "Blackmail" means threatening to expose or reveal the identity of another or
any material, document, secret or other information that might subject a person to
hatred, contempt, ridicule, loss of employment or social status or economic harm.

(2) "Commercial sexual activity" means any sexual activity under item (8) of this
section, sexual conduct under § 39-17-901(14) or the production of obscene material
under § 39-17-902, for which anything of value is given, promised to, or received by any
person.

(3) "Financial harm" includes extortion as defined by § 39-14-112, criminal
violation of the usury laws as defined by § 47-14-112 or employment contracts that
violate the Statute of Frauds as defined by § 29-2-101(b).

(4) "Forced labor or services" means labor or services that are performed or
provided by another person and are obtained or maintained through the defendant's:

(A) Causing or threatening to cause serious harm to any person;

(B) Physically restraining or threatening to physically restrain another
person;

(C) Abusing or threatening to abuse the law or legal process;

(D) Knowingly destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person;

(E) Blackmail; or

(F) Causing or threatening to cause financial harm in order to exercise financial control over any person.

(5) "Labor" means work of economic or financial value.

(6) "Maintain" means, in relation to labor or services, to secure continued performance thereof, regardless of any initial agreement on the part of the victim to perform such type of service.

(7) "Obtain" means, in relation to labor or services, to secure performance thereof.

(8) "Services" means an ongoing relationship between a person and the defendant in which the person performs activities under the supervision of or for the defendant.

§ 39-13-903.

(a) A person commits the offense of involuntary servitude who knowingly subjects, or attempts to subject, another person to forced labor or services by:

(1) Causing or threatening to cause physical harm to such person;

(2) Physically restraining or threatening to physically restrain such person;

(3) Abusing or threatening to abuse the law or legal process;

(4) Knowingly destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of such person; or

(5) Using blackmail, or using or threatening to cause financial harm for the purpose of exercising financial control over such person.

(b) In addition to any other amount of loss identified or any other punishment imposed, the court shall order restitution to the victim or victims in an amount equal to the greater of:

(1) The gross income or value to the defendant of the victim's labor or services; or

(2) The value of the victim's labor as guaranteed under the minimum wage and overtime provisions of the Fair Labor Standards Act (FLSA) or the minimum wage required in Tennessee, whichever is higher.

(c) Nothing in this section shall be construed as prohibiting the defendant from also being prosecuted for the theft of the victim's labor or services by involuntary servitude or for any other appropriate criminal statute violated by the defendant's conduct.

(d)

(1) Involuntary servitude is a Class C felony.

(2) Involuntary servitude is a Class B felony if:

(A) The violation resulted in the serious bodily injury or death of a victim;

(B) The period of time during which the victim was held in servitude exceeded one (1) year, or

(3) The defendant held ten (10) or more victims in servitude at any time during the course of the defendant's criminal episode.

§ 39-13-904.

(a) A person commits the offense of trafficking persons for forced labor or services who knowingly:

(1) Recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to recruit, entice, harbor, transport, provide, or obtain by any means, another person, intending or knowing that the person will be subjected to involuntary servitude; or

(2) Benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in § 39-13-307.

(b) In addition to any other amount of loss identified or any other punishment imposed, the court shall order restitution to the victim or victims in an amount equal to the greater of:

(1) The gross income or value of the benefit received by the defendant as the result of the victim's labor or services; or

(2) The value of the victim's labor as guaranteed under the minimum wage and overtime provisions of the Fair Labor Standards Act (FLSA) or the minimum wage required in Tennessee, whichever is higher.

(c) Trafficking for forced labor or services is a Class D felony.

§ 39-13-905.

(a) A person commits the offense of sexual servitude of a minor who knowingly recruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice, harbor, transport, provide or obtain by any means, a minor, knowing that

the minor will engage in some form of commercial sexual activity, or cause or attempt to cause a minor to engage in commercial sexual activity.

(b) Nothing in this section shall preclude the prosecution of a person committing sexual servitude of a minor from any other applicable statute in addition to this section.

(c)

(1) Sexual servitude of a minor is a Class D felony if the victim is thirteen (13) years of age or older but less than eighteen (18) years of age.

(2) Sexual servitude of a minor is a Class C felony if the victim is less than thirteen (13) years of age.

(3) Sexual servitude of a minor is a Class B felony if the victim is a minor and the defendant uses overt force or threats to commit the offense.

SECTION 2. This act shall take effect July 1, 2007, the public welfare requiring it.